

House Bill 579 (AS PASSED HOUSE AND SENATE)

By: Representative Scott of the 153rd

A BILL TO BE ENTITLED

AN ACT

To amend Part 2 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to liens by landlords, so as to provide for certain definitions; to provide for the assessment of certain rent charges on certain manufactured homes or mobile homes by real property owners; to provide for the establishment of a lien on manufactured homes or mobile homes for certain rent charges; to provide for certain notices; to provide for remedies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to liens by landlords, is amended by adding a new Code section to read as follows:

"44-14-349.

(a) As used in this Code section, the term:

(1) 'Lienholder' shall mean the holder of a perfected security interest and its assignees or servicers of the underlying debt obligation. The term shall apply only to the lienholder or an assignee or servicer of the lienholder for unpaid purchase price or first lien who has recorded such lien on the title of the manufactured home or mobile home.

(2) 'Manufactured home' has the same meaning as provided in paragraph (4) of Code Section 8-2-131.

(3) 'Manufactured home community' means a parcel or tract of land on which three or more manufactured homes or mobile homes are located on a continual, nonrecreational basis and offered to the public.

(4) 'Mobile home' has the same meaning as provided in paragraph (6) of Code Section 8-2-131.

(b) As provided by this Code section, any lien or charge against a manufactured home or mobile home for rent upon the real property on which the manufactured home or mobile home is or has been located is subordinate to the rights of the lienholder for unpaid

1 purchase price or first lien, which is recorded on the title of the manufactured home or
2 mobile home, and the assignee of such lienholder if not recorded on the title.

3 (c) In the event a manufactured home or mobile home has been vacant for more than 30
4 days and after notice to the lienholder as provided in this Code section, rent charges, as
5 provided in this Code section, may be collected by the owner of the manufactured home
6 community from the lienholder and the assignee of any such lienholder by an action at law
7 as authorized by this Code section.

8 (d) The owner of the manufactured home community shall be entitled to collect rent
9 charges accruing from 30 days after the lienholder receives written notice of a completed
10 eviction of the owner or occupant of a manufactured home or mobile home by the owner
11 of the manufactured home community or notice that a manufactured home or mobile home
12 has been abandoned or voluntarily surrendered by the homeowner or occupant and that the
13 manufactured home or mobile home is presently vacant and unoccupied.

14 (e) The notice shall state that an action for eviction has been completed against the
15 homeowner or occupant, that the home is presently vacant and unoccupied, the amount of
16 the daily rent charges calculated pursuant to subsection (i) of this Code section, and the
17 date upon which the homeowner or occupant was required to make regular payments to the
18 owner of the manufactured home community.

19 (f) The lienholder shall notify the owner of the manufactured home community within 30
20 days of receipt of the notice pursuant to subsections (d) and (e) of this Code section
21 whether it intends to make payment of the rent charges and, if the lienholder agrees to
22 make payment, to pay the rent charges that are due pursuant to this Code section.
23 Thereafter, the lienholder shall pay rent charges according to the schedule of payments that
24 the homeowner or occupant was responsible for paying through the date that the
25 manufactured home or mobile home is removed from the owner of the manufactured home
26 community's property. If the lienholder fails to notify the owner of the manufactured home
27 community that it does not intend to pay the rent charges, the rent charges shall accrue and
28 be due and owing to the property owner.

29 (g) In the event that the lienholder files either an action for replevin of the home or
30 forecloses on the lien for unpaid purchase price or first lien, the lienholder shall be
31 responsible for unpaid rent and rent charges that have accrued beginning 30 days after the
32 eviction of the owner or occupant of the manufactured home or mobile home.

33 (h) In the event that the homeowner or occupant declares bankruptcy, the accruing of any
34 rent or rent charge due by the lienholder to the owner of the manufactured home
35 community shall be stayed by the bankruptcy until 30 days after the final court action
36 discharging the bankruptcy or releasing the collateral, whichever occurs first.

(i) The maximum rent charge available to the owner of a manufactured home community shall be a daily rate equal to one-thirtieth of the then current lot rental amount paid by the homeowner or occupant as defined in the current or most recent lease agreement between the homeowner or occupant and the owner of the manufactured home community. In the event that no written lease agreement is in effect between the owner of the manufactured home community and the owner or occupant of a manufactured home or mobile home, the maximum rent charge available to the owner of the manufactured home community shall be \$3.00 per day.

(j) Notice required as set forth in subsections (d) and (e) of this Code section shall be mailed by certified mail, return receipt requested, or statutory overnight delivery to the registered agent of the lienholder or, if the lienholder is not a corporation, to the lienholder's last known address. Notice by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal.

(k) It shall be unlawful for the owner of the manufactured home community to refuse to allow the lienholder to repossess and move the manufactured home or mobile home for failure to pay any charges for which notice was not provided in accordance with the requirements of this Code section. In the event the owner of the manufactured home community refuses to allow the lienholder to repossess and move the manufactured home or mobile home, the owner of the manufactured home community shall be liable to the lienholder for each day that the owner of the manufactured home community unlawfully maintains possession of the home, at a daily rate equal to one-thirtieth of the monthly payment due according to the contract and security agreement entered into between the homeowner or occupant and the lienholder.

(l) If either a lienholder or an owner of a manufactured home community brings an action at law against the other in a court of competent jurisdiction, the prevailing party, as determined by the court, in addition to other relief granted by the court, may be awarded costs of litigation including reasonable attorney's fees.

(m) If, after receipt of a notice pursuant to subsections (d) and (e) of this Code section, a lienholder sells or assigns a manufactured home or mobile home, the lender shall provide the purchaser of such home with a copy of the notice received from the owner of the manufactured home community and the purchaser shall take the home subject to the rights of the owner of the manufactured home community pursuant to this Code section. The owner of the manufactured home community may enforce his or her rights for rent charges against the purchaser without issuing additional notices."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.